

R E M A R K S

- Claims 1 – 49, 51 – 59, and 62 – 71 were pending before the amendments made herein, the entry of which is respectfully requested for the reasons set forth below.
- Claims 5 and 59 (both dependent claims) have been cancelled herein for reasons unrelated to patentability. A review of these claims revealed that they each included respective features that are already recited in the independent claim from which they respectively depend.

Claims 1 – 49, 51 – 59, and 62 – 71 stand rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 5,584,025 to Keithley (“Keithley” herein) in view of U.S. Patent No. 5,819,092 to Ferguson (“Ferguson” herein) and in further view of U.S. Patent No. 6,058,379 to Odom (“Odom” herein). Applicants respectfully traverse this rejection.

Independent Claims 1, 52, 53, 56, 57, 63, 64, and 66

Applicants gratefully acknowledge Examiner’s statement that neither Keithley nor Ferguson discloses “*determining a rating of the homeowner’s willingness to sell the home*” and “*allowing the viewer to communicate with the homeowner if the rating is at least equal to a predetermined rating*”, features that are recited in each of the pending independent claims 1, 52, 53, 56, 57, 63, 64, and 66. Examiner, however, relies on Odom as disclosing each of these features. In support of this, Examiner asserts that Odom discloses “that a threshold can be set up by the seller such that offers that do not meet the seller established criteria are never sent to the seller (col. 6, lines 45 – 55; col. 6, lines 37 – 45), that the seller does not need to sell the item (col. 8, lines 25 – 27), that the seller can determine multiple aspects and criteria of item display, information exchange, or selling conditions (col. 2, lines 34 – 39; col. 2, lines 43 – 49; col. 3, lines 15 – 21; col. 3, lines 34 – 37; col. 3, lines 55 – 61), that purchasers can ‘chat’ with sellers at the sellers discretion and if they meet seller established criteria (col. 6, lines 12 – 20; col. 4, lines 50 – 55; col. 5, lines 34 – 38).

Applicants respectfully submit that Odom does not teach or suggest the above-recited claim features. First, neither Odom nor any other prior art of record teach or suggest a system

that provides information about products that are “*not currently being marketed as being for sale*”, much less about homes that are not currently being marketed as being for sale. The seller in Odom is currently marketing the item as being for sale by posting the item as available for auction. Simply because the seller in Odom can change his mind and back out of an agreement to sell does not mean that, when the seller posts the item as available for auction, the seller is not currently marketing the item as being for sale. To the contrary, the whole purpose of the exchange system of Odom is to aid a seller of a product in marketing his item as being for sale. Even if the seller changes his mind about consummating a particular sale with a particular buyer, this does not change the fact that the seller in Odom is actively marketing his item as being for sale when posting it as available for auction or sale. There is no disclosure in Odom that a person may simply post information about an item that he owns on the Odom system without being willing to sell it.

Second, none of the seller-established criteria in Odom are “a rating of the homeowner’s willingness to sell the home” or a rating of the seller’s willingness to sell the item posted for auction. There is no need for such a rating in Odom because, by virtue of posting an item for auction, the seller is indicating that he is willing to sell the item. A willingness of a seller to sell an item is a factor distinct from the seller-established criteria in Odom, such as a minimum selling price and a minimum acceptable bid increment. Applicants have claimed homeowner-established criteria as being factors based on which it is determined whether an offer from a buyer should be communicated to a seller or whether a viewer should be allowed to communicate with a viewer. Applicants have claimed such homeowner-established criteria in dependent claim 69. However, as claim 69 expressly recites, such criteria specified by a homeowner are criteria distinct from a rating of the homeowner’s willingness to sell the home. In fact, in claim 69 a viewer is allowed to communicate with a homeowner if both (i) the rating of the homeowner’s willingness to sell the home and (ii) criteria specified by the homeowner are satisfied. The two concepts are claimed as two distinct concepts, thus further establishing that a rating of a homeowner’s willingness to sell is distinct from criteria that may be specified by a homeowner.

Lastly, the seller in Odom may, as Examiner asserted, change his mind after the best bid for an auction has been received. However, the exchange system of Odom does not and cannot

know that the seller will change his mind later and thus take that into account when determining whether to accept a bid or to forward a bid to the seller. Odom does not teach or suggest, much less enable, determining whether a seller will later change his mind about selling an item and thus cannot take that determination into account for any purpose. During the process of evaluating bids and determining whether to inform a seller of a bid, the exchange system treats the seller as actively attempting to sell his item. There is no rating of a willingness to sell the item in Odom. Accordingly, Odom does not teach or suggest “determining a rating of a homeowner’s willingness to sell the home; and allowing the viewer to communicate with the homeowner if the rating is at least equal to a predetermined rating.”

Even if the seller’s ability to later change his mind about a sale after the best bid is received may be considered a willingness to sell the item, there is no teaching or suggestion in Odom of rating such a willingness. There is certainly no teaching of rating such a willingness and using the rating to determine whether the buyer should be allowed to communicate with the seller or whether the buyer’s bid should be forwarded to the seller. This is because the seller’s change of mind, if it occurs, does not occur until after the determination of whether to allow the buyer to communicate with the seller or whether to forward the buyer’s bid to the seller is made.

Because neither Ferguson, nor Keithley, nor Odom teach or suggest (i) posting information about an item that is not currently being marketed as being for sale, nor (ii) determining a rating of a homeowner’s willingness to sell the home, nor (iii) allowing the viewer to communicate with the homeowner if the rating is at least equal to a predetermined rating, the combination thereof also does not teach or suggest each of the steps of the independent claims **1, 52, 53, 56, 57, 63, 64, and 66**. Accordingly, Applicants respectfully request that the rejection of these claims be withdrawn.

Dependent claims 2 – 4, 6 – 49, 51, 54, 55, and 68 – 71

The pending dependent claims **2 – 4, 6 – 49, 51, 68 – 71** are each dependent on independent claim **1** and thus include each of the limitations of claim **1**. Applicants respectfully submit that claims **2 – 4, 6 – 49, 51, and 68 – 71** are patentable at least for the same reasons discussed with respect to claim **1**. Dependent claims **54 and 55** are each dependent on

independent claim **53** and thus include each of the limitations of claim **53**. Applicants respectfully submit that claims **54 and 55** are patentable at least for the same reasons as discussed with respect to claim **53**. Dependent claim **62** is dependent from claim **58** and thus includes each of the limitations of claim **58**. Applicants thus respectfully submit that claim **62** is patentable at least for the same reasons discussed with respect to claim **58**.

Conclusion

For the foregoing reasons it is submitted that all of the claims are now in condition for allowance and the Examiner's early re-examination and reconsideration are respectfully requested.

Alternatively, if there remains any question regarding the present application or any of the cited references, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is cordially requested to contact Magdalena M. Fincham at telephone number 203-461-7041 or via electronic mail at mfincham@walkerdigital.com.

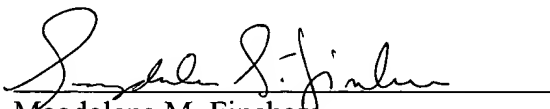
Petition for Extension of Time to Respond

Applicants hereby petition for a **one-month** extension of time with which to respond to the Office Action. Please charge \$55.00 for this petition to our Deposit Account No. 50-0271. Please charge any additional fees that may be required for this Response, or credit any overpayment to Deposit Account No. 50-0271.

If an extension of time is required, or if an additional extension of time is required in addition to that requested in a petition for an extension of time, please grant a petition for that extension of time which is required to make this Response timely, and please charge any fee for such extension to Deposit Account No. 50-0271.

Respectfully submitted,

June 30, 2003
Date


Magdalena M. Fincham
Agent for Applicants
Registration No. 46,085
Walker Digital, LLC
mfincham@walkerdigital.com
203-461-7041 / voice
203-461-7300 / fax

Conclusion

For the foregoing reasons it is submitted that all of the claims are now in condition for allowance and the Examiner's early re-examination and reconsideration are respectfully requested.

Alternatively, if there remains any question regarding the present application or any of the cited references, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is cordially requested to contact Magdalena M. Fincham at telephone number 203-461-7041 or via electronic mail at mfincham@walkerdigital.com.

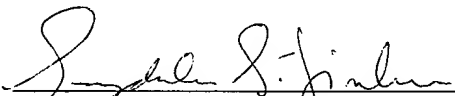
Petition for Extension of Time to Respond

Applicants hereby petition for a **one-month** extension of time with which to respond to the Office Action. Please charge \$55.00 for this petition to our Deposit Account No. 50-0271. Please charge any additional fees that may be required for this Response, or credit any overpayment to Deposit Account No. 50-0271.

If an extension of time is required, or if an additional extension of time is required in addition to that requested in a petition for an extension of time, please grant a petition for that extension of time which is required to make this Response timely, and please charge any fee for such extension to Deposit Account No. 50-0271.

Respectfully submitted,

June 30, 2003
Date


Magdalena M. Fincham
Agent for Applicants
Registration No. 46,085
Walker Digital, LLC
mfincham@walkerdigital.com
203-461-7041 / voice
203-461-7300 / fax